

# HOUSE . . . . . No. 972

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## The Commonwealth of Massachusetts

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PRESENTED BY:

**Ronald Mariano**  
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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to define the use of observation services.

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PETITION OF:

NAME:

Ronald Mariano

DISTRICT/ADDRESS:

3rd Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1017 OF 2007-2008.]

## **The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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### **AN ACT TO DEFINE THE USE OF OBSERVATION SERVICES.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1   SECTION 1. Section 8 of chapter 118E of the General Laws, as appearing in the 2006 Official  
2   Edition, is hereby amended by inserting after the definition of “Medical benefits” the following  
3   new definition:

4   “Observation Services”, health care services furnished on a provider’s premises, including the  
5   use of a bed and periodic monitoring by the provider’s nursing or other provider staff, which are  
6   reasonable and necessary to evaluate a patient’s condition or determine the need for a possible  
7   admission to the hospital as an inpatient. These services are covered only when ordered by the  
8   treating provider with clinical privileges as authorized by the hospital staff bylaws.

9   SECTION 2. Section 12 of chapter 118E of the General Laws, as so appearing, is further  
10   amended by inserting at the end thereof the following new paragraph:

11   The division and its contractors shall classify a beneficiary as requiring or receiving observation  
12   services based on the medical judgment of the treating health care provider after due

consideration of the beneficiary's presenting signs and symptoms. The treating health care provider may authorize that observation services be provided up to 24 hours in circumstances when the beneficiary's diagnosis and treatment course remains unclear and requires only continued monitoring or continued diagnostic assessment by clinical staff; provided however, that the treating health care provider may authorize an inpatient stay within 24 hours based on the diagnosis. For services extending beyond 24 hours in duration, should the diagnosis and the treatment course remain undetermined or the beneficiary require diagnostic testing and/or active treatment of his condition, that beneficiary shall be admitted to the facility as an inpatient. If such health care provider's opinion, based on this evaluation, is that the beneficiary requires less than 24 hours in a facility and does not require inpatient level of care during this period, such beneficiary shall be classified as outpatient observation. Notwithstanding the provisions of this section, observation services shall not extend beyond 24 hours in duration under any circumstance. The division and its contractors shall not retroactively reclassify the beneficiary from inpatient to observation, for either a portion or the entire stay, after the determination by the treating health care provider that the beneficiary shall be admitted as an inpatient.

SECTION 3. Section 1 of chapter 176O of the General Laws, as so appearing, is hereby amended by inserting after the definition of "network" the following new definition:

"Observation Services", health care services furnished on a provider's premises, including the use of a bed and periodic monitoring by the provider's nursing or other provider staff, which are reasonable and necessary to evaluate a patient's condition or determine the need for a possible admission to the hospital as an inpatient. These services are covered only when ordered by the treating provider with clinical privileges as authorized by the hospital staff bylaws.

SECTION 4. Section 12 of chapter 176O, as so appearing, is further amended by inserting the following new subsection (f):

(f) Any classification of an insured as requiring or receiving observation services shall be based on the medical judgment of the treating health care provider after due consideration of the insured's presenting signs and symptoms. The treating health care provider may authorize that observation services be provided up to 24 hours in circumstances when the insured's diagnosis and treatment course remains unclear and requires only continued monitoring or continued diagnostic assessment by clinical staff; provided however, that the treating health care provider may authorize an inpatient stay within 24 hours based on the diagnosis. For services extending beyond 24 hours in duration, should the diagnosis and the treatment course remain undetermined or the insured require diagnostic testing and/or active treatment of his condition, that insured shall be admitted to the facility as an inpatient. If such health care provider's opinion, based on this evaluation, is that the insured requires less than 24 hours in a facility and does not require inpatient level of care during this period, such insured shall be classified as outpatient observation. Notwithstanding the provisions of this section, observation services shall not extend beyond 24 hours in duration under any circumstance. The carrier and its contractors shall not retroactively reclassify the insured from inpatient to observation, for either a portion or the entire stay, after the determination by the treating health care provider that the insured shall be admitted as an inpatient.

SECTION 5. The commissioner of insurance and the office of Medicaid shall promulgate regulations no later than 90 days following the effective date of this Act. The regulations as set forth, shall be effective in contracts between carriers and health care providers that are entered into, renewed, or amended on or after the effective date of this Act.